

SENATE COMMITTEE ON GOVERNMENT OVERSIGHT

September 17, 2013

Chairperson: Senator Janet Petersen

Vice Chairperson: Senator Brian Schoenhahn

Overview. The primary focus of the meeting concerned a review and discussion of issues which have arisen in connection with the administration of the Iowa Juvenile Home in Toledo.

Disability Rights Iowa. Ms. Jane Hudson, Executive Director, Disability Rights Iowa (DRI), provided background information on the role and authority of the organization, its investigation of the Iowa Juvenile Home (IJH), and preliminary recommendations resulting from that investigation. Ms. Hudson stated that DRI is a federally funded nonprofit law firm formed to investigate the abuse and neglect of individuals with disabilities and to pursue legal, administrative, and other remedies on their behalf. The organization is authorized pursuant to federal law to conduct investigations of facilities with residents with disabilities, monitor them for safety and compliance issues, provide information and training regarding programs serving individuals with disabilities and the rights of such individuals, and to provide legal representation and advocacy.

Ms. Hudson related that DRI conducted its first monitoring visit at IJH in November 2012, during which three girls were determined to have been living in isolation cells for a prolonged period of time. Additional problems identified by DRI included excessive and illegal use of restraints and seclusion, failure to provide education while in long-term isolation, inadequate Individual Education Plans (IEPs) for residents, inadequate transition plans for residents "aging out" of the facility, maintaining a population mix of girls and a few boys from foster home backgrounds and delinquent girls, and the observation that line residential staff, rather than treatment or educational staff, appeared more in charge of the facility's operation. Ms. Hudson indicated that, in response, numerous meetings were subsequently conducted between November 2012 and July 2013 between DRI, the Department of Human Services, and the Attorney General's Office and that improvements have been observed in the aftermath. Improvements cited included changing leadership at IJH in January 2013; stopping the use of long-term isolation cells; significantly reducing the use of restraint and seclusion and revising policies for their use to reflect best practices; providing specialized staff training; remodeling and painting of resident cottages; establishing a transition room for in-school suspension; conducting behavioral and educational assessments and developing plans; and engaging in an increased number of off-campus activities.

Ms. Hudson said that DRI's involvement at IJH continues in the form of monitoring implementation of the new policies and procedures, providing advocacy and education for residents, and pursuing a complaint filed with the Department of Education to get compensatory education for girls previously living in isolation cells. She stated that DRI's recommendations for additional improvement at IJH include transitioning from a corrections-based system to a system based on trauma-informed care, treatment, and recovery; regarding IJH as a pilot program for improving the children's mental health system in the state; forming interdisciplinary and interagency teams to facilitate departing residents' transition into adulthood; providing independent oversight of IJH; and investigating whether the educational and residential components of IJH should be managed separately.

Department of Human Services. Mr. Chuck Palmer, Director, Iowa Department of Human Services, accompanied by Mr. Rick Shults, Administrator, Division of Mental Health and Disability Services, provided the department's perspective regarding the issues and controversy at IJH. Mr. Palmer reported that IJH staff are working hard to turn the situation around and that improvements are occurring, that the Governor's Executive Order establishing the Iowa Juvenile Protection Task Force was a positive development, and that many of DRI's suggestions appear to be promising areas for the Task Force to consider. Mr. Shults added that while IJH serves residents with serious problematic and disruptive behavior, these individuals are entitled to the highest standard of care and that standard has not always

been met in the past. He reiterated that improvements at IJH have been made and that there is a strong commitment in continuing to do so.

Iowa Juvenile Home. Mr. Mark Day, Interim Superintendent, IJH, provided background information regarding the operation and funding of IJH, the difficulties he has encountered since being appointed Interim Superintendent, and the efforts which are underway to make improvements. Mr. Day indicated that as of September 3, 2013, IJH was serving 38 students ranging from 12 to 18 years of age, with an average of 6 to 10 previous failed out-of-home placements, having typically suffered childhood physical or sexual abuse. He summarized the children's adjudication status and most frequent diagnoses and reasons for placement, and emphasized the extremely challenging nature of dealing with highly disruptive behavior. Mr. Day said that IJH staff have received significant new training to reduce the use of seclusion, that prolonged seclusion is not occurring, that doors have been removed from seclusion areas, and that the general trend in the use of seclusion and restraints is significantly downward. The IJH has implemented new restraint policies which exceed existing Iowa Code requirements. He emphasized that the resident population, which was already fragile, is unsettled by the efforts which are underway to make improvements which will ultimately be highly beneficial but in the short term are unfamiliar and anxiety-provoking. Mr. Day summarized 2013 IJH staff training efforts, noted that staff are putting in substantial amounts of overtime in a committed effort to make positive changes, and stated that new resident intakes are being curtailed while improvements are being implemented and empty staff positions filled. Mr. Day commented that the aging infrastructure of much of the facility is an impediment to the progress being made.

With regard to the IJH school, Mr. Day indicated the school is operated on a full-time, year-around basis, funded through a combination of Department of Education funding and a general fund appropriation, and staffed in the form of a principal and 10 certified teachers. He stated that 61 percent of the students are classified as special education, and that out of the 10 teachers, two are currently certified as special education instructors. Classroom size has been reduced from 10 to 7 students, a transition classroom has been made available for youth unable to remain in regular classrooms due to disruptive behavior, and IJH is collaborating with the local Area Education Agency to improve special education efforts.

Department of Education. Dr. Brad Buck, Director, Iowa Department of Education, accompanied by Dr. W. David Tilly, Deputy Director, Division of Learning and Results, and Dr. Jeff Berger, Deputy Director, Division of School Finance and Support Services, provided input from the department regarding improvement efforts underway at the IJH school. Dr. Buck stated that the department is excited by the prospect of improving lives through collaborative efforts to facilitate better education at IJH, and is committed to implementing the Task Force recommendations. With regard to the DRI complaint concerning access to education while in seclusion, top-level department staff made an on-site visit to IJH in mid-August as part of a compliance review required to be conducted at five-year intervals, and are currently in the process of formulating recommendations based on that review. The rationale for classifying the IJH school as a "program" rather than a "school" and the department's authority in overseeing and approving the program was discussed, as well as efforts to become current on resident IEPs and make necessary improvements in the IEP process.

Committee Discussion. Committee discussion included inquiries regarding the hiring process currently underway for new staff and a timeline for hiring a permanent superintendent, the necessity for and frequency of isolation of a resident from the rest of the resident population, the range in classification of IJH students as special education and whether a sufficient number of certified teachers exist, the safety of resident cottages, the extent of collaboration between IJH and the local Area Education Agency, how the IJH school program is funded, whether the Department of Education has documented that residents in seclusion were denied access to education, and the concern that an adequate system of checks and balances regarding management versus oversight of IJH may not be in place.

LSA Contacts: Richard Nelson, Legal Services, (515) 242-5822; Deb Kozel, Fiscal Services, (515) 281-6767.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=85&CID=538>